

1 PATRICIA BARBOSA (SBN 125865)
2 KEVIN BAYLEY (SBN 218070)
3 **BARBOSA GROUP**
4 16531 Bolsa Chica St., #205
5 Huntington Beach, CA 92649
6 Tel: (714) 465-9486
7 PBarbosa@barbosagrp.com
8 Kbayley@barbosagrp.com

9
10 *Attorney for Plaintiff,*
11 CHRISTIE RUDDER

12
13 (Appearances continued on following page)

14 **UNITED STATES DISTRICT COURT**

15 **CENTRAL DISTRICT OF CALIFORNIA**

16 CHRISTIE RUDDER, individual;) Case No.: 8:13-cv-01610-JLS-DFM
17 Plaintiff,)
18 vs.)
19 YARD HOUSE USA, INC.; DARDEN)
20 INC.; GREENLAW PARTNERS, LLC;)
21 GREENLAW MANAGEMENT, INC.;) **JOINT REPORT FOLLOWING**
22 MADISON MARQUETTE RETAIL) **MEETING OF COUNSEL**
23 SERVICES; and DOES 1 through 10,) **PURSUANT TO FED. R. CIV. P. 26(f)**
24 inclusive,)
25 Defendants,)
26)
27)
28)
29)
30)
31)
32)
33)
34)
35)
36)
37)
38)
39)
40)
41)
42)
43)
44)
45)
46)
47)
48)
49)
50)
51)
52)
53)
54)
55)
56)
57)
58)
59)
60)
61)
62)
63)
64)
65)
66)
67)
68)
69)
70)
71)
72)
73)
74)
75)
76)
77)
78)
79)
80)
81)
82)
83)
84)
85)
86)
87)
88)
89)
90)
91)
92)
93)
94)
95)
96)
97)
98)
99)
100)
101)
102)
103)
104)
105)
106)
107)
108)
109)
110)
111)
112)
113)
114)
115)
116)
117)
118)
119)
120)
121)
122)
123)
124)
125)
126)
127)
128)
129)
130)
131)
132)
133)
134)
135)
136)
137)
138)
139)
140)
141)
142)
143)
144)
145)
146)
147)
148)
149)
150)
151)
152)
153)
154)
155)
156)
157)
158)
159)
160)
161)
162)
163)
164)
165)
166)
167)
168)
169)
170)
171)
172)
173)
174)
175)
176)
177)
178)
179)
180)
181)
182)
183)
184)
185)
186)
187)
188)
189)
190)
191)
192)
193)
194)
195)
196)
197)
198)
199)
200)
201)
202)
203)
204)
205)
206)
207)
208)
209)
210)
211)
212)
213)
214)
215)
216)
217)
218)
219)
220)
221)
222)
223)
224)
225)
226)
227)
228)
229)
230)
231)
232)
233)
234)
235)
236)
237)
238)
239)
240)
241)
242)
243)
244)
245)
246)
247)
248)
249)
250)
251)
252)
253)
254)
255)
256)
257)
258)
259)
260)
261)
262)
263)
264)
265)
266)
267)
268)
269)
270)
271)
272)
273)
274)
275)
276)
277)
278)
279)
280)
281)
282)
283)
284)
285)
286)
287)
288)
289)
290)
291)
292)
293)
294)
295)
296)
297)
298)
299)
300)
301)
302)
303)
304)
305)
306)
307)
308)
309)
310)
311)
312)
313)
314)
315)
316)
317)
318)
319)
320)
321)
322)
323)
324)
325)
326)
327)
328)
329)
330)
331)
332)
333)
334)
335)
336)
337)
338)
339)
340)
341)
342)
343)
344)
345)
346)
347)
348)
349)
350)
351)
352)
353)
354)
355)
356)
357)
358)
359)
360)
361)
362)
363)
364)
365)
366)
367)
368)
369)
370)
371)
372)
373)
374)
375)
376)
377)
378)
379)
380)
381)
382)
383)
384)
385)
386)
387)
388)
389)
390)
391)
392)
393)
394)
395)
396)
397)
398)
399)
400)
401)
402)
403)
404)
405)
406)
407)
408)
409)
410)
411)
412)
413)
414)
415)
416)
417)
418)
419)
420)
421)
422)
423)
424)
425)
426)
427)
428)
429)
430)
431)
432)
433)
434)
435)
436)
437)
438)
439)
440)
441)
442)
443)
444)
445)
446)
447)
448)
449)
450)
451)
452)
453)
454)
455)
456)
457)
458)
459)
460)
461)
462)
463)
464)
465)
466)
467)
468)
469)
470)
471)
472)
473)
474)
475)
476)
477)
478)
479)
480)
481)
482)
483)
484)
485)
486)
487)
488)
489)
490)
491)
492)
493)
494)
495)
496)
497)
498)
499)
500)
501)
502)
503)
504)
505)
506)
507)
508)
509)
510)
511)
512)
513)
514)
515)
516)
517)
518)
519)
520)
521)
522)
523)
524)
525)
526)
527)
528)
529)
530)
531)
532)
533)
534)
535)
536)
537)
538)
539)
540)
541)
542)
543)
544)
545)
546)
547)
548)
549)
550)
551)
552)
553)
554)
555)
556)
557)
558)
559)
560)
561)
562)
563)
564)
565)
566)
567)
568)
569)
570)
571)
572)
573)
574)
575)
576)
577)
578)
579)
580)
581)
582)
583)
584)
585)
586)
587)
588)
589)
590)
591)
592)
593)
594)
595)
596)
597)
598)
599)
600)
601)
602)
603)
604)
605)
606)
607)
608)
609)
610)
611)
612)
613)
614)
615)
616)
617)
618)
619)
620)
621)
622)
623)
624)
625)
626)
627)
628)
629)
630)
631)
632)
633)
634)
635)
636)
637)
638)
639)
640)
641)
642)
643)
644)
645)
646)
647)
648)
649)
650)
651)
652)
653)
654)
655)
656)
657)
658)
659)
660)
661)
662)
663)
664)
665)
666)
667)
668)
669)
670)
671)
672)
673)
674)
675)
676)
677)
678)
679)
680)
681)
682)
683)
684)
685)
686)
687)
688)
689)
690)
691)
692)
693)
694)
695)
696)
697)
698)
699)
700)
701)
702)
703)
704)
705)
706)
707)
708)
709)
710)
711)
712)
713)
714)
715)
716)
717)
718)
719)
720)
721)
722)
723)
724)
725)
726)
727)
728)
729)
730)
731)
732)
733)
734)
735)
736)
737)
738)
739)
740)
741)
742)
743)
744)
745)
746)
747)
748)
749)
750)
751)
752)
753)
754)
755)
756)
757)
758)
759)
760)
761)
762)
763)
764)
765)
766)
767)
768)
769)
770)
771)
772)
773)
774)
775)
776)
777)
778)
779)
780)
781)
782)
783)
784)
785)
786)
787)
788)
789)
790)
791)
792)
793)
794)
795)
796)
797)
798)
799)
800)
801)
802)
803)
804)
805)
806)
807)
808)
809)
810)
811)
812)
813)
814)
815)
816)
817)
818)
819)
820)
821)
822)
823)
824)
825)
826)
827)
828)
829)
830)
831)
832)
833)
834)
835)
836)
837)
838)
839)
840)
841)
842)
843)
844)
845)
846)
847)
848)
849)
850)
851)
852)
853)
854)
855)
856)
857)
858)
859)
860)
861)
862)
863)
864)
865)
866)
867)
868)
869)
870)
871)
872)
873)
874)
875)
876)
877)
878)
879)
880)
881)
882)
883)
884)
885)
886)
887)
888)
889)
890)
891)
892)
893)
894)
895)
896)
897)
898)
899)
900)
901)
902)
903)
904)
905)
906)
907)
908)
909)
910)
911)
912)
913)
914)
915)
916)
917)
918)
919)
920)
921)
922)
923)
924)
925)
926)
927)
928)
929)
930)
931)
932)
933)
934)
935)
936)
937)
938)
939)
940)
941)
942)
943)
944)
945)
946)
947)
948)
949)
950)
951)
952)
953)
954)
955)
956)
957)
958)
959)
960)
961)
962)
963)
964)
965)
966)
967)
968)
969)
970)
971)
972)
973)
974)
975)
976)
977)
978)
979)
980)
981)
982)
983)
984)
985)
986)
987)
988)
989)
990)
991)
992)
993)
994)
995)
996)
997)
998)
999)
1000)
1001)
1002)
1003)
1004)
1005)
1006)
1007)
1008)
1009)
1010)
1011)
1012)
1013)
1014)
1015)
1016)
1017)
1018)
1019)
1020)
1021)
1022)
1023)
1024)
1025)
1026)
1027)
1028)
1029)
1030)
1031)
1032)
1033)
1034)
1035)
1036)
1037)
1038)
1039)
1040)
1041)
1042)
1043)
1044)
1045)
1046)
1047)
1048)
1049)
1050)
1051)
1052)
1053)
1054)
1055)
1056)
1057)
1058)
1059)
1060)
1061)
1062)
1063)
1064)
1065)
1066)
1067)
1068)
1069)
1070)
1071)
1072)
1073)
1074)
1075)
1076)
1077)
1078)
1079)
1080)
1081)
1082)
1083)
1084)
1085)
1086)
1087)
1088)
1089)
1090)
1091)
1092)
1093)
1094)
1095)
1096)
1097)
1098)
1099)
1100)
1101)
1102)
1103)
1104)
1105)
1106)
1107)
1108)
1109)
1110)
1111)
1112)
1113)
1114)
1115)
1116)
1117)
1118)
1119)
1120)
1121)
1122)
1123)
1124)
1125)
1126)
1127)
1128)
1129)
1130)
1131)
1132)
1133)
1134)
1135)
1136)
1137)
1138)
1139)
1140)
1141)
1142)
1143)
1144)
1145)
1146)
1147)
1148)
1149)
1150)
1151)
1152)
1153)
1154)
1155)
1156)
1157)
1158)
1159)
1160)
1161)
1162)
1163)
1164)
1165)
1166)
1167)
1168)
1169)
1170)
1171)
1172)
1173)
1174)
1175)
1176)
1177)
1178)
1179)
1180)
1181)
1182)
1183)
1184)
1185)
1186)
1187)
1188)
1189)
1190)
1191)
1192)
1193)
1194)
1195)
1196)
1197)
1198)
1199)
1200)
1201)
1202)
1203)
1204)
1205)
1206)
1207)
1208)
1209)
1210)
1211)
1212)
1213)
1214)
1215)
1216)
1217)
1218)
1219)
1220)
1221)
1222)
1223)
1224)
1225)
1226)
1227)
1228)
1229)
1230)
1231)
1232)
1233)
1234)
1235)
1236)
1237)
1238)
1239)
1240)
1241)
1242)
1243)
1244)
1245)
1246)
1247)
1248)
1249)
1250)
1251)
1252)
1253)
1254)
1255)
1256)
1257)
1258)
1259)
1260)
1261)
1262)
1263)
1264)
1265)
1266)
1267)
1268)
1269)
1270)
1271)
1272)
1273)
1274)
1275)
1276)
1277)
1278)
1279)
1280)
1281)
1282)
1283)
1284)
1285)
1286)
1287)
1288)
1289)
1290)
1291)
1292)
1293)
1294)
1295)
1296)
1297)
1298)
1299)
1300)
1301)
1302)
1303)
1304)
1305)
1306)
1307)
1308)
1309)
1310)
1311)
1312)
1313)
1314)
1315)
1316)
1317)
1318)
1319)
1320)
1321)
1322)
1323)
1324)
1325)
1326)
1327)
1328)
1329)
1330)
1331)
1332)
1333)
1334)
1335)
1336)
1337)
1338)
1339)
1340)
1341)
1342)
1343)
1344)
1345)
1346)
1347)
1348)
1349)
1350)
1351)
1352)
1353)
1354)
1355)
1356)
1357)
1358)
1359)
1360)
1361)
1362)
1363)
1364)
1365)
1366)
1367)
1368)
1369)
1370)
1371)
1372)
1373)
1374)
1375)
1376)
1377)
1378)
1379)
1380)
1381)
1382)
1383)
1384)
1385)
1386)
1387)
1388)
1389)
1390)
1391)
1392)
1393)
1394)
1395)
1396)
1397)
1398)
1399)
1400)
1401)
1402)
1403)
1404)
1405)
1406)
1407)
1408)
1409)
1410)
1411)
1412)
1413)
1414)
1415)
1416)
1417)
1418)
1419)
1420)
1421)
1422)
1423)
1424)
1425)
1426)
1427)
1428)
1429)
1430)
1431)
1432)
1433)
1434)
1435)
1436)
1437)
1438)
1439)
1440)
1441)
1442)
1443)
1444)
1445)
1446)
1447)
1448)
1449)
1450)
1451)
1452)
1453)
1454)
1455)
1456)
1457)
1458)
1459)
1460)
1461)
1462)
1463)
1464)
1465)
1466)
1467)
1468)
1469)
1470)
1471)
1472)
1473)
1474)
1475)
1476)
1477)
1478)
1479)
1480)
1481)
1482)
1483)
1484)
1485)
1486)
1487)
1488)
1489)
1490)
1491)
1492)
1493)
1494)
1495)
1496)
1497)
1498)
14

1 **JEFFER MANGELS BUTLER & MITCHELL LLP**
2 MARTIN H. ORLICK SBN. 083908
3 mho@jmbm.com
4 STUART K. TUBIS SBN. 278278
5 skt@jmbm.com
6 Two Embarcadero Center, Fifth Floor
7 San Francisco, California
8 94111-3824
9 Telephone: (415) 398-8080
10 Facsimile: (415) 398-5584
11 Attorneys for Defendants Yard House USA, Inc. and Darden Inc.
12
13

14 **BUCHALTER NEMER**
15 GLENN P. ZWANG (SBN: 112295)
16 IVO KELLER (SBN: 245909)
17 A Professional Corporation
18 55 Second Street, Suite 1700
19 San Francisco, CA 94105-3493
20 Telephone: (415) 227-0900
21 Facsimile: (415) 227-0770
22 Email: gzwang@buchalter.com
23 Attorneys for Defendants GREENLAW PARTNERS, LLC, GREENLAW
24 MANAGEMENT, INC., and MADISON MARQUETTE RETAIL SERVICES, INC.
25
26
27
28

1 Pursuant to this Court's Order, Local Rule 26 and Federal Rule of Civil
 2 Procedure, Rule 26(f), the parties present the following Joint Statement. On January
 3 14, 2014, counsel for the parties met telephonically to discuss the issues in this case.
 4 Present were, Patricia Barbosa and Kevin Bayley for the Plaintiff; Martin Orlick for
 5 Defendants YARD HOUSE USA, INC. and DARDEN INC.; and Glenn Zwang for
 6 Defendants GREENLAW PARTNERS, LLC, GREENLAW
 7 MANAGEMENT, INC., and MADISON MARQUETTE RETAIL SERVICES, INC.

8 **A. STATEMENT OF THE CASE**

9 **Plaintiff's Statement**

10 Plaintiff, CHRISTIE RUDDER, brings this action alleging that Defendants
 11 discriminated against her on the basis of her physical disabilities in violation of Title
 12 III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et*
 13 *seq.* (“ADA”), and California civil rights laws and regulations (Cal. Civ. Code § 51;
 14 and Cal. Health & Saf. Code §§19955 *et seq.*), in the manner in which they own,
 15 operate, and or lease the Yard House restaurant at “The Triangle” in Costa Mesa,
 16 California and the public parking and paths of travel to the Yard House Costa Mesa.
 17 Plaintiff is a qualified disabled person who requires the use of a wheelchair for
 18 mobility in places of public accommodation due to her permanent physical
 19 disabilities, as the result of injuries and strokes. Plaintiff is a full-time wheelchair
 20 user who is unable to walk or stand unassisted.

21 Plaintiff is a long-time disability advocate who is passionately committed to
 22 pursuing the goal of mainstreaming persons with disabilities by obtaining readily
 23 accessible public facilities in places of public accommodations, such as the Yard
 24 House. On or about April 4, 2013, Plaintiff visited the Yard House Costa Mesa to
 25 enjoy the food, drink and atmosphere available there. It was her birthday and she
 26 was looking forward to sampling different beers, eating fine food, watching sports,
 27 and meeting fellow diners.

28 However, the physical barriers to get into the Yard House Costa Mesa and the

1 barriers inside of the Restaurant make her visit difficult, uncomfortable and
2 embarrassing for her. When arriving at The Triangle, Plaintiff had difficulty locating
3 an accessible parking space that would provide her with a path of travel to the Yard
4 House. She resorted to parking in a regular space which had some extra clearance
5 room for customers to reach the elevator. She then made her way to the Yard House.
6 Plaintiff was alone and wanted to sit at the bar area so that she could enjoy the
7 company of other patrons. She found that instead of being led to accessible bar
8 seating, the hostess had to ask the manager if Plaintiff could sit in the lowered section
9 of the bar. When she reached the lowered portion of the bar, she found why the
10 hostess had not directly seated her at the bar. She found that in that space the wait
11 staff had disposed of old drinks, placed carafes, drinks and dirty dishes, and the
12 bartender poured left-over drinks into a drain at the head of the accessible seating
13 space. The seating was cleared off for Plaintiff, but the smell of the drain continued
14 during her meal, as well as the wait staff continuing to use the section to leave dirty
15 dishes. During her meal, Plaintiff needed to use the restroom, but found that the
16 path of travel to the restroom area was blocked by patrons and chairs in the path of
17 travel. Staff directed her to exit the restaurant through a side entrance, travel around
18 the outside of the restaurant, re-enter through the main entrance and then proceed to
19 the restrooms. This path of travel was several times longer than the direct route
20 inside in the restaurant. Plaintiff felt she would have to move persons to use the
21 restroom or go outside and come in so as not to disturb the patrons standing in the
22 path of travel inside the restaurant. Plaintiff left feeling segregated, unwanted and
23 embarrassed by her attempt to celebrate her birthday in a place that did not want her
24 to business.

25 Plaintiff wishes to enjoy the same amenities and facilities offered to the
26 general public at the Yard House-Costa Mesa and therefore she seeks to have the
27 public parking, paths of travel and goods and services offered at the Yard House
28 Costa Mesa readily accessible to and usable to her and other persons with mobility

1 disabilities. The barriers encountered when Plaintiff visits the Yard House-Costa
2 Mesa include the following: Parking: insufficient in number, incorrectly configured,
3 located and without an accessible path of travel to the entrances; Signage: a lack of
4 signage indicating the accessible entrance; Restaurant: inaccessible seating,
5 incorrectly configured restrooms and dispensers; inaccessible lowered bar counter;
6 and discriminatory policies of locating wheelchair users in a section of the bar where
7 servers place dirty dishes, drain unused drinks, a failure to reserve the lowered
8 section of the bar for use by persons with disabilities who cannot use the high table
9 and stools, and for a failure to maintain an accessible path of travel within the
10 restaurant for wheelchairs.

11 Plaintiff seeks to have Defendants remove barriers and modify their policies to
12 ensure readily accessible facilities and access to the Yard House Costa Mesa's goods
13 and services. She also seeks to obtain damages under California law for the
14 discrimination suffered, the deterrence she faces in not visiting the Yard House Costa
15 Mesa when she would like due to the known barriers, and reasonable attorneys' fees
16 and costs for enforcing provisions of the ADA and California civil rights laws.
17 The disdain shown by Defendants in the manner in which the facilities lack access
18 and the policies are discriminatory, is also demonstrated in Defendants' Answers to
19 the Complaint. Without any supporting evidence, all Defendants have listed
20 Affirmative Defenses stating that Plaintiff has Unclean Hands. Yardhouse Defendant
21 specifically alleges that Plaintiff "is deliberately targeting multiple locations over the
22 same or purely technical, non-existent "access barriers", which do not impact
23 Plaintiff's ability to receive full and equal access to Defendants' goods, services and
24 accommodations." Unless Defendants amend their Answers to eliminate this
25 Affirmative Defense, Plaintiff will aggressively move to discover any basis for these
26 scurrilous allegations for what are meritorious claims of discrimination. Although
27 attacking civil rights plaintiffs is the defense of choice for many defense counsel,
28 Plaintiff's Counsel are civil rights attorneys who take seriously allegations that this

1 action was not brought in good faith or represents a fraud on the court and will
 2 vigorously defend any allegations of unclean hands or bad faith. As courts have
 3 recently found, the tactic of attacking ADA plaintiffs and their counsel is troubling,
 4 and may say more about defense counsel than the plaintiffs. “Defendant’s attempts to
 5 argue that this case was abusive or brought in bad faith also fail. These arguments are
 6 representative of a troubling trend in which disability access defendants attack the
 7 motives of plaintiffs and their counsel in nearly every case brought to enforce the
 8 right to equal access guaranteed by the ADA and California statutes.” *Kittok v.*
 9 *Leslie’s Poolmart, Inc.*, 687 F.Supp.2d 953, 958 (C.D. Cal. 2009); see also *Id. at 959*
 10 (“For the ADA to yield its promise of equal access for the disabled, it may indeed be
 11 necessary and desirable for committed individuals to bring serial litigation advancing
 12 the time when public accommodations will be compliant with the ADA.”) (internal
 13 quotation marks omitted); *Antoninetti v. Chipotle Mexican Grill, Inc.*, 643 F.3d 1165,
 14 1175 (9th Cir. Cal. 2010). Defendants have the choice to move this case toward
 15 reasonable settlement, or wage a battle of intentions that Plaintiff is prepared to
 16 counter.

17 **Defendants YARD HOUSE USA, INC. and DARDEN INC.:**

18 Although this case involves a person with a disability, it does not involve
 19 disability discrimination. Yard House USA, Inc. (“Yard House”) has operated a fully
 20 accessible and welcoming restaurant without issue for many years at the location in
 21 question.

22 Unfortunately, the lawsuit at hand exemplifies misuse of the ADA perfectly.
 23 On the day of her alleged visit, Plaintiff was fully able to attend the Yard House
 24 restaurant, eat a meal and enjoy all the same amenities and lively atmosphere that any
 25 other patron would be able to do. Plaintiff alleges that she had difficulty finding an
 26 accessible parking space (note Plaintiff did not allege that such a space was not
 27 present). Plaintiff then chose to park in a spot with extra clearance that allowed ample
 28 room for her to exit her vehicle and enter the restaurant. Plaintiff’s counsel has

1 acknowledged that Yard House is a tenant with no control over the common area
2 parking. After a simple verbal request, Plaintiff was provided a fully accessible spot
3 at the bar and served her meal and drinks as any other patron would receive. Plaintiff
4 claims that she was discriminated against because activity at the area she ate was
5 high. However, Plaintiff is not able to point to any disability standard or ADA
6 requirement governing the level of noise and activity at the seating area of a sports
7 bar.

8 Crowds of people are not regulated by the ADA. Successful sports bars are
9 crowded by their nature and can be crowded at any time. Plaintiff, like all other
10 patrons, must endure the same crowds.

11 Plaintiff then claims to have been deterred from getting to the bathroom
12 because patrons were alleged in her way. Even assuming this is true, encountering
13 some difficulty maneuvering through people at a busy bar to go to the restroom is
14 common as to all bars with restrooms. Plaintiff never claims to have excused herself
15 or politely asked anyone in her way to kindly move aside as almost anyone would
16 have done. Plaintiff does not cite any specific code or dimensional regulation that was
17 violated. Most interestingly, Plaintiff does not claim to have been unable to go to the
18 restroom *because* of her disability.

19 Plaintiff did not encounter discrimination. Plaintiff encountered the same
20 general annoyances that anyone might when attending a busy sports bar. It is not
21 appropriate, and certainly not legally valid, for Plaintiff to transfer the sentimentality
22 of discrimination onto ordinary inconveniences of life. Yard House welcomes
23 customers with disabilities and is sympathetic to Plaintiff for the annoyances she
24 encountered and would like to make every visit an enjoyable one, Plaintiff has
25 initiated a legal action in federal court. Accordingly, legal grounds must be
26 established and proven for any such claims to be successful.

27 //
28 //

1 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,**
 2 **INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

3 Defendants have denied the substantive allegations of the complaint. To the
 4 extent that the common areas in the shopping center fail to comply with ADA or
 5 California disability laws, Defendants assert various affirmative defenses.
 6 Unfortunately, the complaint is unclear as to alleged ADA violations in the parking
 7 lot. Defendants only know that plaintiff allegedly encountered some difficulty
 8 parking, but was able to park. Defendants have retained an ADA consultant to
 9 evaluate parking at the shopping center, and will be in a better position to respond on
 10 the merits when the consultant's report is completed. Should there be any ADA
 11 violation with respect to parking or other common areas, Defendants will remedy it.
 12 Had plaintiff notified Defendants that she encountered these difficulties before suing
 13 them, any problems that may exist would have been corrected without the need for
 14 this lawsuit.

15

16 **B. Legal Issues**

17 **a. Undisputed Legal Issues**

18 (1) The Court has jurisdiction over this action pursuant to 28 U.S.C. §1331,
 19 for violations of Title III of the ADA, and for supplemental jurisdiction, attendant
 20 and related causes of action, brought under California law.

21 (2) Venue is proper in this Court pursuant to 28 U.S.C. § 1331(b).

22 (3) The Triangle and the Yard House Costa Mesa are places of public
 23 accommodation covered by Title III of the ADA and California Civil Codes 51. et
 24 seq.

25 **b. Disputed Legal Issues**

26 1. What is the financial and contractual relationship between the Defendants, and
 27 what responsibility does each of the parties have towards Plaintiff to ensure that The
 28 Triangle and the Yard House Costa Mesa offers their goods and services in a non-

1 discriminatory manner to Plaintiff and other persons with mobility disabilities.

2 2. Were the public facilities at The Triangle and the Yard House Costa Mesa
3 "readily accessible to and usable by" persons with mobility disabilities in compliance
4 with ADA standards and California building standards at the time of Plaintiff's visits
5 on April 4, 2013?

6 3. What alterations, renovations or new construction has taken place, if any, at
7 The Triangle and the Yard House Costa Mesa since July 1, 1982 under California law
8 and since January 26, 1992 under the ADA, that would have triggered full
9 accessibility in the area of remodel, and/or path of travel upgrades from the
10 designated accessible parking spaces, restrooms serving the area of remodel, public
11 rights of way, the bus stops, and the exterior and interior paths of travel to the public
12 entrances areas;

13 4. What "readily achievable barrier removal" has been required, if any, since
14 January 26, 1992 to the present to provide disabled access to the goods, and services
15 offered to the general public by Defendants, in a readily accessible manner?

16 5. What reasonable modifications in policies, practices and procedures, if any,
17 were required under the ADA and the corresponding ADAS regulations to provide
18 Plaintiff the goods and services offered by Defendants in a "readily accessible"
19 manner, including maintaining accessible facilities and features, accessible bar
20 seating, accessible parking spaces, accessible paths of travel to and from the parking
21 structure to the entrance of the Yard House Costa Mesa for persons with mobility
22 disabilities?

23 6. What injunctive relief, if any, is required following a finding of violation of
24 California Civil Code § 51, et seq. or Title III of the ADA?

25 7. What monetary damages, if any, are required for violations of Title III of the
26 ADA and California Civil Code § 51, et seq.?

27 //

28 //

1 8. What inconveniences did Plaintiff encounter based on disability discrimination
2 as opposed to the inconveniences the general public experiences whether or not they
3 are disabled?

4 9. Why should Plaintiff be afforded any relief when the inconvenience as she
5 allegedly encountered were the same for all customers?

6 10. If Yard House modifies the dimensional requirements of state codes and
7 federal and guidelines, how is Plaintiff the victim of disability discrimination because
8 the restaurant is a popular sports bar?

9

10 **C. Damages**

11 Plaintiff's claims for damages are for violation of California civil rights statutes
12 and regulations, pursuant to Civil Code § 51, et seq. Section 52 provides for
13 minimum statutory damages of \$4,000 "for each and every offense" of section 51
14 upon a showing that the Plaintiff suffered difficulty, discomfort or embarrassment,
15 different facilities with different functions may also count as separate violations of
16 Section 51. Plaintiff may also seek damages under section 52 and 54.3 for separate
17 violations of Title III of the ADA, such as a failure to remove readily achievable
18 barriers or modify discriminatory policies and practices that injured Plaintiff and her
19 ability to use the public accommodations in a "readily accessible" manner.

20 It is the policy of Plaintiff's counsel not to make a demand for damages until after
21 the injunctive relief portion of the case is resolved to ensure meeting the public
22 purposes of the ADA and California laws, and to avoid a conflict of interest between
23 monetary demand and demand for injunctive relief. Plaintiff's counsel has
24 significant experience in settling ADA cases and obtaining significant damages for
25 clients, including obtaining treble damages for a single discriminatory event. (See
26 *Acosta v. NuVision Federal Credit Union, et al.*, USDC, Central District, CV 12-
27 03547-MMM) In this case, as in all cases handled by Plaintiff's counsel, we first
28 seek to remove barriers and eliminate discriminatory policies for all disabled persons

1 before discussing damages. The amount of damages demanded will be based on
 2 discriminatory experiences and/or the number of times that Plaintiff has been to, or
 3 has been deterred from visiting The Triangle or the Yard House Costa Mesa due to
 4 known physical barriers, the difficulty, embarrassment and physical and emotional
 5 pain experienced in past visits, as well as the number of separate ADA violations, and
 6 the different facilities offered by Defendants. Plaintiff's counsel has in past cases
 7 obtained damages as low as \$10,000 for statutory damages and more than \$500,000
 8 in settlement for an individual, without significant physical injury. Depending on the
 9 facts that may come out during discovery, Plaintiff may also have a claim for trebled
 10 or punitive damages against Defendants.

11 **Defendants YARD HOUSE USA, INC. and DARREN INC.:**

12 Yard House believes that Plaintiff has not been discriminated against because of
 13 her disability therefore she is not entitled to any relief.

14

15 **D. Insurance**

16 **Defendants YARD HOUSE USA, INC. and DARREN INC.:**

17 As of the present, Yard House and Darden have not received any
 18 disbursements, proceeds, payments, indemnifications or contributions from any
 19 insurance carrier.

20 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,
 21 INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

22 As of the present, Defendants have not received any disbursements, proceeds,
 23 payments, indemnifications or contributions from any insurance carrier.

24

25 **E. Motions**

26 **Plaintiff's Statement:** Plaintiff has named and served all known owners,
 27 operators and lessors of the subject facilities. Plaintiff will diligently seek to ensure
 28 that all necessary parties are included in the Complaint to obtain a full and fair

1 resolution of this case, and will file to amend the complaint as soon as the correct
2 parties are ascertained. In addition, the parties have agreed to an early inspection of
3 the public facilities in this case, so that Plaintiff can file a First Amended Complaint
4 to fully comply with Fed. R. Civ. Pro. 8 notice requirements as modified by the Ninth
5 Circuit. Defendants' Answers have alleged that Plaintiff has filed an unmeritorious
6 complaint in bad faith. Plaintiff will vigorously defend against such allegations,
7 including filing a motion requesting Rule 11 sanctions, if Defendants fail to provide
8 supporting facts for these allegations, or refuse to amend their Answers. Plaintiff will
9 also seek to file a Motion for Partial Summary Adjudication on Liability if the parties
10 are not able to settle this matter within a reasonable time.

11 **Defendants YARD HOUSE USA, INC. and DARDEN INC.:**

12 Defendants maintain that no violation of the ADA or disability law occurred. If
13 the matter is not resolved in the short-term future, a dispositive motion will be filed.

14 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,
15 INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

16 Defendants maintain that no violation of the ADA or disability law occurred. If
17 the matter is not resolved in the short-term future, a dispositive motion will be filed.

19 **F. Manual For Complex Litigation**

20 The parties do not believe that this case will require use of the manual for
21 complex litigation.

23 **G. Status of Discovery**

24 The parties propose to comply with Rule 26 disclosures without procedural
25 changes, and have discussed the documents to be exchanged. The parties do not
26 propose limiting discovery, or conducting it in phases. The parties have also
27 discussed seeking an early mediation in hopes of resolving all or most of the claims
28 in this matter.

1 **Plaintiff's Statement:**

2 Plaintiff has engaged an expert in Federal and State civil rights disability
 3 standards. The expert is also an architect and well-versed in construction and can
 4 identify and evaluate the physical barriers and also issue of modification of policies
 5 to propose injunctive relief remedies.

6 **Defendant YARD HOUSE USA, INC. and DARDEN INC.:**

7 Yard House has consulted with an ADA expert and California Accessibility
 8 Specialist (CASp) regarding the location in question. Yard House and Darden will
 9 call upon their expert's services and opinions as needed.

10 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,
 11 INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

12 Defendants have consulted with an ADA expert and California Accessibility
 13 Specialist (CASp) regarding the location in question. Greenlaw Partners, LLC;
 14 Greenlaw Management, Inc.; and Madison Marquette Retail Services, Inc. will call
 15 upon their expert's services and opinions as needed.

16 **H. Discovery Plan**

17 **Plaintiff's proposed discovery:** Plaintiff has not yet propounded written
 18 discovery, but will do so shortly, in regards to the following issues: affirmative
 19 defenses raised in the Answers to the Complaint; information regarding the
 20 relationship between all Defendants as owners, operators, lessors or lessees of the
 21 subject facilities; construction and/or remodel history of the subject facilities, and any
 22 plans for proposed renovations; information regarding any past disability complaints
 23 or discriminatory policies; evaluation and identification of access barriers at the
 24 subject facilities prior to the filing of the Complaint, and; any barrier removal
 25 conducted after the filing of the Complaint; any barrier removal Defendants did not
 26 do because they determined it was not "readily achievable" to do so; the "overall
 27 financial resources" and/or operational difficulties of Defendants preventing "readily
 28

1 achievable" barrier removal; and information regarding Defendants' policies and
2 procedures for providing their goods or services to persons with mobility disabilities
3 at the subject facilities. Plaintiff anticipates no more than ten (10) depositions at this
4 time to discover the above-cited information. Plaintiff's proposed dates for discovery
5 and expert discovery deadlines are given in Attachment A below.

6 **Defendants YARD HOUSE USA, INC. and DARDEN, INC.:**

7 Defendants will propound written discovery, including requests for admissions,
8 form and special interrogatories, and requests for production of documents, if the
9 matter is not resolved in the future and such discovery appears that it will be useful.

10 Defendants will take the deposition of Plaintiff and others who may have
11 first-hand information or testimony relevant to the claims of the case.

12 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,**
13 **INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

14 Defendants will initiate discovery if there is no early resolution.

15

16 **I. Discovery Cut-Off**

17 Plaintiffs propose a discovery cut-off date of December 1, 2014. The Parties have set
18 forth proposed trial and discovery dates for this matter as Attachment A to this joint
19 report.

20

21 **J. Dispositive Motions**

22 **Plaintiff's position:** If the parties are unable to reach a settlement either
23 informally or with the assistance of a mediator, Plaintiff will file a Motion for Partial
24 Summary Adjudication as to the issue of liability and a Motion for Permanent
25 Injunction to stop the continuing discrimination based on physical barriers and
26 discriminatory policies. Possible motions in limine are not known at this time.

27 //

28 //

1 **Defendants YARD HOUSE USA, INC. and DARDEN INC.:**

2 If the matter is not resolved in the short-term future, Yard House and Darden
3 will file a dispositive motion.

4 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,**
5 **INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

6 Defendants anticipate dispositive motions if there is no early resolution.

7

8 **K. Settlement**

9 Plaintiff's counsel first step toward settlement is to make a site inspection of
10 the facilities and make a demand for injunctive relief. Plaintiff's counsel will work
11 with Defendants to schedule a site inspection of the subject facilities with their
12 experts to identify, measure, and photograph the barriers for settlement purposes, and
13 to prove liability if necessary. Plaintiff's counsel will then make a demand for
14 injunctive relief to begin settlement discussions of Plaintiff's claims. Plaintiff
15 requests referral to a private mediator within 90 days of Plaintiff's demand for
16 injunctive relief.

17 **Defendants YARD HOUSE USA, INC. and DARDEN INC.:**

18 Yard House and Darden remain committed to resolving this dispute and
19 continuing to ensure a fully accessible restaurant for all patrons, with and without
20 disabilities. However, Plaintiff has not demanded a reasonable sum for a fair
21 resolution of the matter thus far. Defendants are not prepared to offer more than a
22 nominal amount for the everyday inconveniences Plaintiff claims to have suffered.
23 Nonetheless, Defendants remain hopeful that a fair and expedient resolution of the
24 matter may be achieved.

25 **Defendants GREENLAW PARTNERS, LLC, GREENLAW MANAGEMENT,**
26 **INC., and MADISON MARQUETTE RETAIL SERVICES, INC.:**

27 Defendants seek to quickly and efficiently obtain information on plaintiff's
28 claim, determine whether plaintiff encountered barriers to access due to an ADA

1 violation, and move the case into a mediation.

2

3 **L. Trial Estimate**

4 Plaintiff estimates a trial of 3-5 days and requests a jury trial. Plaintiff
5 anticipates calling seven witnesses at trial.

6

7 **M. Trial Counsel**

8 **PLAINTIFF CHRISTIE RUDDER:** Patricia Barbosa and Kevin Bayley will
9 be trial counsel for Plaintiff.

10 **DEFENDANTS YARD HOUSE USA, INC. and DARDEN INC.:**

11 Martin Orlick and Stuart Tubis will be trial counsel for these Defendants.

12 **DEFENDANTS GREENLAW PARTNERS, LLC; GREENLAW**

13 **MANAGEMENT, INC.; and MADISON MARQUETTE RETAIL SERVICES.:**

14 Glenn Zwang will be trial counsel for these Defendants.

15

16 **N. Independent Expert or Master**

17 The Parties do not believe it will be necessary for the court to appoint an
18 independent expert or master.

19

20 **O. Other Issues**

21 The parties are not aware of other issues at this time.

22

23

24 Dated: January 17, 2014 **BARBOSA GROUP**

25

26

By: /s/ PATRICIA BARBOSA
PATRICIA BARBOSA
Attorney for Plaintiff CHRISTIE RUDDER

27

28

1
2 Dated: January 17, 2014 **JEFFER MANGELS BUTLER & MITCHELL LLP**

3 By: /s/ MARTIN ORLICK
4 MARTIN ORLICK
5 Attorneys for Defendants YARD HOUSE USA, INC.
6 and DARDEN INC.

7
8 Dated: January 17, 2014 **BUCHALTER NEMER**

9 By: /s/ GLENN ZWANG
10 GLENN ZWANG
11 Attorneys for Defendants GREENLAW
12 PARTNERS, LLC, GREENLAW MANAGEMENT,
13 INC., and MADISON MARQUETTE RETAIL
14 SERVICES, INC.

SCHEDULE OF PRETRIAL AND TRIAL DATES-ATTACHMENT ACASE NAME: *Rudder v. Yard House, et al.*

Matter	Time	Weeks before Trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last Date to Amend Pleadings or Add Parties		60 days after sch. Conf.	March 1, 2014		
Fact Discovery Cut-Off		19	September 17, 2014		
Last Day to Serve Initial Expert Reports		17	October 1, 2014		
Last Day to File Motions (Except Motions in Limine)		17	October 1, 2014		
Last Day to Serve Rebuttal Expert Reports		13	October 29, 2014		
Last Day to Conduct Settlement Proceedings		10	November 19, 2014		
Expert Discovery Cut-off		9	November 26, 2014		
Pretrial Conference, LR 16; Hearing on Motions in Limine	1:30 p.m.	3	January 6, 2015		
Exhibit Conference (Friday at 3:30 p.m.)	3:30 p.m.	1	January 24, 2015		
Jury Trial (3-5 days)			January 28, 2015		